
**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2017-370-E**

IN RE: Joint Application and Petition of South)
 Carolina Electric & Gas Company and)
 Dominion Energy, Incorporated for)
 Review and Approval of a Proposed)
 Business Combination between SCANA)
 Corporation and Dominion Energy,)
 Incorporated, as May Be Required, and)
 for a Prudency Determination Regarding)
 the Abandonment of the V.C. Summer)
 Units 2 & 3 Project and Associated)
 Customer Benefits and Cost Recovery)
 Plans.)

**TRANSCONTINENTAL
PIPELINE COMPANY, LLC'S
REPLY
TO THE JOINT APPLICANTS'
RESPONSE**

INTRODUCTION

On May 7, 2018, Transcontinental Pipeline Company, LLC ("Transco"), filed its Petition to Intervene (Out of Time), with this Commission. Dominion Energy, Inc. and South Carolina Electric & Gas Company (hereinafter together as "Joint Applicants"), filed its Objection and Response in Opposition to Transco's filing on May 11, 2017. Thereafter, Transco filed a second Petition to Intervene (Out of Time) on May 17, 2018. The Joint Applicants e-filed correspondence with this Commission on May 24, 2018, ("Second Response"). Transco's Reply to the Joint Applicants' Response, follows.

Joint Applicants' Second Response.

The Joint Applicants' Second Response is of no value to this Commission, because it ignores the substantial additional information in Transco's Petition to Intervene filed on May 17, 2018. Namely, Transco's Petition to Intervene filed on May 17, 2018, contained:

“4. Petitioner, Transco has substantial business interests with SCE&G including but not limited to: transportation and storage service agreements, interconnection agreements, precedent agreement, pooling agreements, interruptible transportation agreements and park and loan agreements all of which will be, on information and belief, adversely affected by, any Order of the Public Service Commission of South Carolina with relation to this Docket.”

“5. Petitioner, Transco has substantial business interests with Dominion including but not limited to: transportation and storage service agreements, interconnection agreements, pooling agreements, interruptible transportation agreements and park and loan agreements with Dominion Energy Fuel Service, Incorporated ... energy all of which will be, on information and belief, adversely affected by any final Order of the Public Service Commission of South Carolina with regard to this Docket.”

The Joint Applicants also ignore the fact that Transco’s Petition filed on May 17, 2018, sets forth both a “position” and “grounds”, for the Petition.

INTERVENTION

Transco’s Petition to Intervene “... is within the sound discretion of this Commission, and such discretion is bound by guiding principles and factors.” IN RE Application of South Carolina Electric & Gas Company for Increases and Adjustments in Electric Rate Schedules and Tariffs, Order Denying Petition to Intervene Docket no. 2009-489-E, Order No. 2010-221 citing with approval Ex Parte Government Employee’s Insurance Company, 373 S.C. 132, 644 SE 2d 699 (2007). The Government Employee’s Insurance Company case specifically states that, “Generally, the rules of intervention should be liberally construed where judicial economy will be promoted by declaring the rights of all affected parties. ... Accordingly, the Court should consider the practical implications of a decision denying or allowing intervention. Ex Parte Government Employee’s Insurance Company, supra, p. 702. (Internal citations omitted). This Commission should allow Transco’s intervention, because it will declare the rights of all affected parties and the practical implications of not allowing the intervention is that further litigation ensues between these parties outside the bounds of this Commission’s decision making process.

STANDING

Transco amended its first Petition after receipt of the May 11, 2018, joint “Response in Opposition and Objection...” to Transco’s filing, to specifically respond to some of the erroneous assertions by the Joint Applicants. The Joint Applicants argue that Transco does not have standing. Transco does have standing and its May 17, 2018, Petition makes it abundantly clear that it does. “... the ‘irreducible constitutional minimum of standing’ has three components: **First**, the plaintiff must have suffered an “injury in fact” — an invasion of a legally protected interest which is (a) concrete and particularized, and (b) “actual or imminent, not ‘conjectural’ or ‘hypothetical.’” **Second**, there must be a causal connection between the injury and the conduct complained of the injury has to be “fairly ... trace[able] to the challenged action of the defendant, and not ... th[e] result [of] the independent action of some third party not before the court.” **Third**, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.” Smiley v. S.C. Dept. of Health, 649 S.E.2d 31, 374 S.C. 326 (S.C., 2007), (internal citations omitted).

As stated in Transco’s May 17, 2018, Petition, Transco has significant number of agreements with the Joint Applicants, all or some of which are in danger of being adversely affected by the decision of this Commission in the above captioned matter. Clearly those contracts are legally protected interests which are concrete and particularized and are in imminent danger of injuring Transco’s financial position. **First**, An “(i)njury in fact’ reflects the statutory requirement that a person be ‘adversely affected’ or ‘aggrieved,’ and it serves to distinguish a person with a direct stake in the outcome of a litigation — even though small — from a person with a mere interest in the problem. We have allowed important interests to be vindicated by plaintiffs with no more at stake in the outcome of an action than a fraction of a vote,... a \$5 fine and costs, ... and a \$1.50 poll tax”Smiley v. S.C. Dept. of Health, 649 S.E.2d 31, 34, 374 S.C. 326 (S.C., 2007) (internal citations omitted).

Transco easily meets the **Second** prong of the standing test in that but for the Joint Applicants’ actions the contracts which Transco seeks to protect would not be in imminent danger of being detrimentally affected. Finally, Transco also easily meets the **Third** prong of the standing test in that the imminent threat to its agreements with the Joint Applicants will be resolved by a favorable decision.

R. 103-804(H).

It is interesting to note that this Commission's Rules, specifically the definition of Intervenor, recognize that Intervenor status does not mean that the Intervenor will be aggrieved by any action of this Commission. R. 103-804(H). If the Commission allows an Intervenor to participate without concerning itself with the factual grievance of the Intervenor, then the Commission should allow Transco to intervene.

Factual Support for Intervention.

Transco specifically states that it has numerous agreements with the Joint Applicants and that on information and belief those agreements will be adversely affected by the decision in this case. Those assertions are set forth in Paragraphs 3- 6, of Transco's May 17, 2018 Petition, reads as follows:

- “3. Specifically, Transco is a provider of natural gas transportation and storage services to South Carolina Electric & Gas Company (“SCE&G”) and Dominion Energy, Incorporated (“Dominion”).
4. Petitioner, Transco has substantial business interests with SCE&G including but not limited to: transportation and storage service agreements, interconnection agreements, precedent agreement, pooling agreements, interruptible transportation agreements and park and loan agreements all of which will be, on information and belief, adversely affected by, any Order of the Public Service Commission of South Carolina with relation to the above captioned case.
5. Petitioner, Transco has substantial business interests with Dominion including but not limited to: transportation and storage service agreements, interconnection agreements, pooling agreements, interruptible transportation agreements and park and loan agreements with Dominion Energy Fuel Service, Incorporated and Virginia Power Services Energy all of which will be, on information and belief, adversely affected by any final Order of the Public Service Commission of South Carolina with regard to the above captioned case.
6. Transco's rights and interests, on information and belief, will be substantially and adversely affected by decisions and/or orders issued by this Commission in this proceeding and any changes to any of the contracts between Transco and Dominion and/or Transco and SCE&G.”

CONCLUSION

Based on the foregoing, and the fact that no Hearing has been set in this Docket, Transco's May 17, 2018 Petition to Intervene (Out of Time) should be granted and Transco be allowed full rights of participation, because (i) Transco has adequately plead grounds and set forth a position that supports intervention under the Law and (ii) no party will be prejudiced by Transco's intervention.

Respectfully Submitted,

/s/

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May 29, 2018
Columbia, South Carolina